IN THE

ARIZONA COURT OF APPEALS

DIVISION TWO

THE STATE OF ARIZONA,
Respondent,

v.

ADAM BERNARD SERNAS,
Petitioner.

No. 2 CA-CR 2013-0498-PR
Filed January 15, 2014

Petition for Review from the Superior Court in Maricopa County
No. CR2003015771001DT
The Honorable Hugh Hegyi, Judge

REVIEW GRANTED; RELIEF DENIED

COUNSEL

Adam Bernard Sernas, Buckeye
In Propria Persona

MEMORANDUM DECISION

Chief Judge Howard authored the decision of the Court, in which Presiding Judge Vásquez and Judge Miller concurred.

H O W A R D, Chief Judge:

¶1 Petitioner Adam Sernas seeks review of the trial court's order denying his petition for post-conviction relief, filed pursuant to Rule 32, Ariz. R. Crim. P. "We will not disturb a trial court's ruling on a petition for post-conviction relief absent a clear abuse of discretion." *State v. Swoopes*, 216 Ariz. 390, ¶ 4, 166 P.3d 945, 948 (App. 2007). Sernas has not sustained his burden of establishing such abuse here.

¶2 After a jury trial, Sernas was convicted of second-degree murder, and the trial court imposed an aggravated, enhanced sentence of twenty-two years' imprisonment. Sernas's conviction and sentences were affirmed on appeal. *State v. Sernas*, No. 1 CA-CR 05-0512 (memorandum decision filed Apr. 20, 2006). Sernas thereafter sought and was denied post-conviction relief.

¶3 In September 2012, Sernas initiated a second proceeding for post-conviction relief, arguing in a pro se petition that the second-degree murder instruction given at his trial "omitted an essential element of the charged offense," that he had received ineffective assistance of trial and Rule 32 counsel, and that the United States Supreme Court's decisions in *Melendez-Diaz v. Massachusetts*, 557 U.S. 305 (2009), and *Martinez v. Ryan*, ___ U.S. ___, 132 S. Ct. 1309 (2012), constituted significant changes in the law entitling him to relief. In a thorough and well-reasoned minute entry, the trial court summarily denied relief.

¶4 On review, Sernas repeats his claims made below and asserts the trial court abused its discretion dismissing them. We disagree. The court clearly identified the claims Sernas raised and

resolved them correctly in a thorough, well-reasoned minute entry, which we adopt. *See State v. Whipple*, 177 Ariz. 272, 274, 866 P.2d 1358, 1360 (App. 1993) (when trial court has correctly ruled on issues raised "in a fashion that will allow any court in the future to understand the resolution[, n]o useful purpose would be served by this court rehashing the trial court's correct ruling in a written decision").

¶5 To the extent Sernas argues on review that the trial court failed to address his claims related to *Melendez-Diaz* or whether it was a significant change in the law, we cannot say the court abused its discretion in implicitly rejecting them. Insofar as he argued trial counsel was ineffective in not objecting to the introduction of evidence that might have been excluded pursuant to *Melendez-Diaz*, the claim is precluded. *See* Ariz. R. Crim. P. 32.2(a)(3). As the trial court concluded, any related claim that such evidence was improperly admitted is also precluded. *Id.* And, as to any claim that *Melendez-Diaz* was a significant change in the law, Sernas has not established such a claim. He has not shown that *Melendez-Diaz* was a "'transformative event, a clear break from the past.'" *State v. Poblete*, 227 Ariz. 537, ¶ 8, 260 P.3d 1102, 1105 (App. 2011), *quoting State v. Shrum*, 220 Ariz. 115, ¶ 15, 203 P.3d 1175, 1178 (2009). Nor has he explained why, if it were a significant change in the law, *Melendez-Diaz* was retroactively applicable to his case. *See id.* ¶¶ 11-12.

¶6 Therefore, although the petition for review is granted, relief is denied.